



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL  
ATTORNEY GENERAL

January 21, 1950

Hon. Parker Ellzey  
County Attorney  
Jim Wells County  
Alice, Texas

Opinion No. V-984.

Re: The present maximum  
compensation of pre-  
cinct officers in Jim  
Wells County under  
the submitted facts.

Dear Sir:

Your request for an opinion is in part as follows:

"I would like your opinion on the question of what is the maximum allowable salary for precinct officers of Jim Wells County."

Jim Wells County had a population of 20,239 inhabitants according to the last preceding Federal Census. Subsequent to your request you advised us that the precinct officers were compensated on a "fee basis" in 1948. According to the facts submitted, the precinct officers will be compensated on a salary basis in 1950. Therefore, the salaries of the precinct officers in Jim Wells County will be governed by Section 3 of Article 3912g, V.C.S. (S.B.92, Acts 51st Leg., 1949, ch.320, p. 601), which provides:

"All of such officers who were paid on a fee basis during the fiscal year of 1948, and who are now to be paid on a salary basis, shall be paid an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year of 1935, and not more than the maximum sum allowed such officer under the laws existing on August 24, 1948, together with the twenty-five (25%) per cent increase allowed by this Act within the discretion of the Commissioners Court."

The maximum sum allowed precinct officers under laws existing on August 24, 1948, was governed by the provisions of Articles 3883 and 3891, V.C.S. We quote those provisions of these articles which were

applicable to Jim Wells County in 1948:

Art. 3883:

"Except as otherwise provided in this Act, the annual fees that may be retained by precinct, county and district officers mentioned in this Article shall be as follows:

"1. In counties containing twenty five (25,000) thousand or less inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Twenty-four Hundred (\$2400.00) Dollars each; Justice of the Peace and Constable, Twelve Hundred (\$1200.00) Dollars each. (Emphasis added)

Art. 3891:

"Each officer named in this Chapter shall first out of the current fees of his office pay or be paid the amount allowed him under the provisions of Article 3883, together with the salaries of his assistants and deputies, and authorized expenses under Article 3899, and the amount necessary to cover costs of premium on whatever surety bond may be required by law. If the current fees of such office collected in any year be more than the amount needed to pay the amounts above specified, same shall be deemed excess fees, and shall be disposed of in the manner hereinafter provided.

"In counties containing twenty-five thousand (25,000) or less inhabitants, District and County officers named herein shall retain one-third of such excess fees until such one-third, together with the amounts specified in Article 3883, amounts to Three Thousand Dollars (\$3,000). Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Fourteen Hundred Dollars (\$1400).

" . . .

"(a) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars." (Emphasis added)

The maximum compensation of a precinct officer in Jim Wells County in 1944 was \$1400.00. Arts. 3883 and 3891. Subdivision (a) of Article 3891, above quoted, which was effective in 1945, allowed an increase not to exceed twenty-five per cent of the sum allowed under the law for the fiscal year of 1944. Therefore, the maximum compensation of a precinct officer in Jim Wells County in 1948 was \$1400.00 plus twenty-five per cent, or \$1750.00 (\$1400 plus \$350).

Since the maximum compensation of a precinct officer in Jim Wells County was \$1750.00 in 1948, the maximum salary now allowed a precinct officer in that county is \$1750.00 plus twenty-five per cent, or \$2187.50 (\$1750 plus \$437.50). Art. 3912g, Sec. 3, V.C.S.

#### SUMMARY

The maximum compensation of a precinct officer in counties of less than 25,000 inhabitants according to the last preceding Federal Census, who was compensated on a "fee basis" in 1948 and is now compensated on a "salary basis", is \$2187.50. Arts. 3883, 3891, and 3912g, V.C.S.

APPROVED:

J. C. Davis, Jr.  
County Affairs Division

Charles D. Mathews  
Executive Assistant

JR:bh:mw

Yours very truly,

PRICE DANIEL  
Attorney General

By   
John Reeves  
Assistant